

## **TOWN OF MIDDLEFIELD**

### **DOG LICENSING**

**Local Law #2 of the year 2011**

**Enacted September 13, 2011**

**Be it enacted by the Town Board of the Town of Middlefield, located in Otsego County and the State of New York, as follows:**

#### **Section 1. TITLE**

The title of this law shall be Dog Licensing, and may be cited as "The Town of Middlefield Dog Licensing Law."

#### **§2. LEGISLATIVE INTENT**

The purpose of this local law is to provide for the licensing and identification of dogs, the control and protection of the dog population and the protection of persons, property, and animals. The State has mandated that the Town take responsibility for the licensing of dogs found within the Town.

#### **§3. REPEAL**

The Town of Middlefield Dog Licensing Law enacted December 14, 2010 (Local Law #1 of the year 2010) is hereby repealed in its entirety upon the effective date hereof.

#### **§4. ENABLING AUTHORITY**

This law is enacted pursuant to the New York Municipal Home Rule Law and Article 7 of the New York Agricultural and Markets Law.

#### **§5. DEFINITIONS**

All words, terms, and phrases used herein, unless otherwise indicated herein, shall be defined as such words, terms, and phrases are defined in the New York Agricultural & Markets Law. If such words, terms, and phrases are not defined herein or in the New

York Agricultural & Markets Law, they shall be given common definition by standard usage in the English language.

As used in this chapter, the following terms shall have the meanings indicated:

**AGRICULTURE AND MARKETS LAW** – Means the Agriculture and Markets Law of the State of New York in effect as of the effective date of this Local Law, as amended by this local law, and as thereafter may be amended from time to time.

**CLERK** – Means the Town Clerk of the Town of Middlefield, County of Otsego, State of New York.

**IDENTIFICATION TAG** – Means a tag issued by the Town Clerk which sets forth the identification number together with the name of the Town and State, the telephone number of the Town Clerk, and any other information deemed necessary by the Town Clerk.

**NEUTERED** – Means a dog that has been spayed or castrated so as to render it incapable of producing offspring.

**OWNER** – Means any person who harbors or keeps any dog or other animal.

**OWNER OF RECORD** – Means the person in whose name a dog was last licensed pursuant to this chapter.

**PERSON** – Means a person, partnership, corporation, association or other organized group of persons, business entity, municipality, or other legal entity.

**RESIDENT** – Means a person who maintains a residence within the Town of Middlefield, County of Otsego, State of New York.

**TOWN** – Means the Town of Middlefield, located in County of Otsego and State of New York.

**RUN AT LARGE** - Means to be in a public place or on private land without the knowledge, consent, and approval of the owner of such lands.

**UN-NEUTERED DOG** – Means a dog that is not neutered.

## **§6. LICENSING OF DOGS**

No person shall own or possess a dog within the Town, unless such dog is licensed and identified as provided in Article 7 of the Agriculture and Markets Law and laws of the Town, except as otherwise set forth herein or in the laws of the State of New York or the laws of the United States of America.

All dogs within the Town that are four (4) months of age or older, unless otherwise exempted by law, shall be licensed. No license shall be required for any dog which is under the age of four months and which is not at large.

The owner of each dog required to be licensed shall obtain, complete, and return to the Clerk a dog license application together with the license application fee, any applicable license surcharges, and such additional fees as may be established by the Town.

#### **§7. PROOF OF VACCINATION AGAINST RABIES**

Each license application shall be accompanied by proof that the dog has been vaccinated against rabies or a statement from a licensed veterinarian that such vaccination would endanger the dog's life in which case vaccination shall not be required.

#### **§8. NEUTERED**

In the case of a neutered dog, every application shall be accompanied by an original certificate signed by a licensed veterinarian, or an affidavit by the owner, showing that the dog has been neutered, excepting such certificate or affidavit shall not be required if the same is already on file with the Clerk. In lieu of the neuter certificate or affidavit, an owner may present an original certification by a licensed veterinarian stating that he/she has examined the dog and found that because of old age or other reason, the life of the dog would be endangered by neutering; in such case, the license fee for the dog shall be the same as for a neutered dog.

#### **§9. TERM OF LICENSE AND RENEWALS**

Each license issued pursuant to this local law, shall be valid for a period of one (1) year and shall expire on the last day of the last month of the period for which it was issued. No license shall be issued for a period expiring after the last day of the eleventh month following the expiration date of the current rabies certificate for the dog being licensed.

#### **§10. DOGS LICENSED IN NEW YORK CITY OR OUTSIDE NEW YORK STATE**

Any dog harbored within the Town that is owned by a resident of New York City or licensed by the City of New York, or that is owned by a non-resident of New York State and licensed by a jurisdiction outside the State of New York, shall for a period of thirty (30) days be exempt from the licensing and identification provisions of this local law.

## **§11. PROHIBITION AGAINST LICENSING BY ANIMAL SHELTERS AND POUNDS**

The Town does not allow the licensing of dogs, on behalf of the Town, by a shelter, pound, or other adoption agency. In the case of a dog to be adopted by an owner residing in the Town, or a dog to be harbored in the Town, the shelter, pound, or adoption agency should direct the adoptive dog owner to the Town for licensing of such dog.

## **§12. FEES**

### **(a) Individual Dog License Fee shall be**

US \$5.00 for a neutered dog

US \$12.00 for an un-neutered dog

### **(b) State Mandated Animal Population Control Surcharge**

Each individual dog license for a neutered dog shall be subject to an Animal Population Control Surcharge in the amount of US \$1.00 payable at the time the dog license application is filed.

Each individual dog license for an un-neutered dog shall be subject to an Animal Population Control Surcharge in the amount of US \$3.00 payable at the time the dog license application is filed.

### **(c) Dog Enumeration Surcharge**

Each dog found to be unlicensed during a Town dog enumeration, shall be subject to a US \$10.00 dog enumeration surcharge payable at the time of the application is filed to license said dog.

### **(d) Replacement Tag Fee**

A replacement tag fee of US \$2.00 shall be charged to offset the costs associated with the replacement of identification tags.

### **(e) Fee Exemptions**

There shall be no fee for any license issued for the following dogs, as each is defined in Article 7 of the Agriculture and Markets Law, provided that the owner provides documentation to the Clerk proving such classification

- o guide dog
- o hearing dog
- o service dog
- o war dog
- o working search dog
- o detection dog
- o police work dog

- o therapy dog

Each copy of any license for such dogs shall be conspicuously marked "Guide Dog," "Hearing Dog," "Service Dog", "Working Search Dog", "War Dog", "Detection Dog", "Police Work Dog," or "Therapy Dog", as may be appropriate, by the Clerk.

**(f) Fees Subject to Change by Board Resolution**

Pursuant to Municipal Home Rule Law Section 10(1)(ii)(a)(9-a), the Town authorizes and reserves to the Town Board the right and power to amend and revise, from time to time, by resolution of the Town Board all of the fees, charges, and surcharges set forth above.

**(g) Refunds & Credits**

The Town shall not issue any refund, or pro-rate any fee, due to a license that has a term of less than one year, or for whatever reason is unused or invalid for a full year. No credit shall be given by the Town for any unexpired term under a dog licensed issued by another municipality.

**§13. ISSUANCE OF LICENSE; IDENTIFICATION TAG**

**(a) Issuance of License.** Upon validation by the Clerk, a dog license shall be issued and a record of its issuance retained in the office of the Clerk. Such record shall be made available upon request to the State Commissioner of Agriculture and Markets, or successor thereof.

**(b) Non-transferable.** No license shall be transferable. Upon the transfer of ownership of any dog, the new owner shall immediately apply for a new license for the dog. A license cannot be transferred to another dog.

**(c) Change of Ownership, Lost or Stolen Dogs.**

(i) Upon the transfer of ownership of any dog, the new owner shall immediately make application for a license for such dog. The original issued identification tag shall remain the same for the life of the dog.

(ii) In the event of a change in ownership of any dog that has been assigned an official identification number by the Town, or in the event of a change of address of the owner of record of any such dog, the owner of record shall, within ten days of such change, notify the Clerk.

(iii) If any dog which has been assigned an official identification number by the Town is lost or stolen, the owner of record shall, within ten days of the discovery of such loss or theft, notify the Clerk.

(iv) In the case of the death of a dog that has been assigned an official identification number by the Town, the owner of record shall so notify the Clerk prior to or at the time of expiration of such dog's then current license.

**(d) Identification Tag.**

(i) The Clerk shall assign a Town identification number to a dog when it is first licensed. Such identification number shall be carried by the dog on an identification tag, which shall be affixed to a collar or similar device worn by the dog at all times, except as exempted herein. Such identification tag also shall include a contact telephone number of the Town, the "Town of Middlefield" and the "State of New York."

(ii) A dog participating in a dog show, during such participation, and a dog participating in legal hunting activities with its human handler, during such participation, shall be exempt from the identification requirement of this provision and Section 111 of the Agriculture and Markets Law.

(iii) The official permanent identification number shall constitute the official identification of the dog to which it is assigned, regardless of changes of ownership, and the number shall not be reassigned to any other dog during the lifetime of the dog to which it is assigned.

(iv) No tag carrying an identification number shall be affixed to the collar of any dog other than the one to which the number has been assigned

(v) At the time a dog is first licensed, one identification tag shall be furnished to the owner at no additional charge. Any replacement tag shall be obtained by the owner from the Town at the owner's expense, as set forth herein.

**§14. PUREBRED DOG LICENSE AND FEE**

The owner of one or more purebred dogs registered by a recognized registry association as defined in Agriculture and Markets Law, §108 may annually make an application for a purebred license, in lieu of or in addition to the individual licenses required by this local law. A purebred license shall be valid for a period of one year beginning with the first day of the month following the date of issuance and shall be renewable annually thereafter prior to the expiration date.

The purebred dog license application shall state the name, address and telephone number of the owner; the county and town where such dogs are harbored; the sex, breed, registry name and number of each purebred registered dog over the age of four months which is harbored on the premises; and the sex and breed of each purebred dog over the age of four months which is harbored on the premises and which is eligible for registration with a recognized registry association as defined in Agricultural &

Markets Law Section 108. The application shall also include a statement by the owner that all purebred dogs over the age of four months which are harbored on the premises have been listed.

The application shall be accompanied by the license fee prescribed by this local law and a certificate of rabies vaccination or statement in lieu thereof, as required by this local law and article 7 of the State Agriculture and Markets Law.

Upon receipt of the foregoing items, the clerk shall assign a license number, which shall be reserved for the sole use of the named owner, and shall issue a purebred license. Once a purebred license has been issued, no refund therefore shall be made.

The Town Clerk shall:

- (i) provide a copy of the purebred license to the owner; and
- (ii) retain a record of the purebred license in the office of the Town Clerk.

No purebred license shall be transferable. Upon change of ownership of any dog licensed under a purebred license, such dog shall become subject to the licensing provisions of subdivision one of this section, except when the new owner holds a valid purebred license.

#### Fees

\$150.00, if no more than twenty (20) registered purebred dogs or purebred dogs eligible for registration over the age of four (4) months are harbored on the owner's premises at any time during the term of the license; or

\$1,000.00, if more than twenty (20) registered purebred dogs or purebred dogs eligible for registration over the age of four (4) months are harbored on the owner's premises at any time during the term of the license.

Each Purebred Dog License shall be subject to a State mandated Animal Population Control Surcharge in the amount of \$3.00, payable at the time the purebred dog license application is filed.

#### **§15. REDEMPTION OF DOGS AND IMPOUNDMENT FEES**

Each and every dog seized pursuant to this Local Law or New York State Agricultural and Markets Law Article 7 shall be held by the Town according to the provisions of Section 117 of said Agricultural and Markets Law effective October 9, 2010, as may be amended from time to time. An owner of any such dog may redeem the dog upon

compliance with terms set in said Agricultural & Markets Law Section 117, as may be amended from time to time, excepting the Town imposes an Impoundment Fee as follows: \$20.00 plus the daily boarding fee charged by the animal shelter, or similar facility, at which the dog is impounded by the Town, and veterinary fees incurred for the medical treatment of the dog during the term of impoundment.

Pursuant to Municipal Home Rule Law Section 10(1)(ii)(a)(9-a), the Town authorizes and reserves to the Town Board the right and power to amend and revise, from time to time, by resolution of the Town Board, the Impoundment Fee schedule set herein.

## **§16. PENALTIES**

A violation of this Local Law shall be punishable, subject to an election by the Town, either:

(a) where prosecuted pursuant to the penal law, by a fine of not less than twenty-five dollars, except that (i) where the person was found to have violated this Local Law or Article seven of the New York Agriculture & Markets Law within the preceding five years, the fine may be not less than fifty dollars, and (ii) where the person was found to have committed two or more such violations within the preceding five years, it shall be punishable by a fine of not less than one hundred dollars or imprisonment for not more than fifteen days, or both; or

(b) where prosecuted as an action to recover a civil penalty, by a civil penalty of not less than twenty-five dollars, except that (i) when the person was found to have violated this Local Law or Article seven of the New York Agriculture & Markets Law within the preceding five years, the civil penalty may be not less than fifty dollars, and (ii) where the person was found to have committed two or more such violations within the preceding five years, the civil penalty may be not less than one hundred dollars.

## **§17. REPEAL OF INCONSISTENT LOCAL LAWS AND ORDINANDCES**

This local law shall supersede all prior inconsistent Local Laws, Ordinances, Rules and Regulations relative to the licensing of dogs within the Town. All prior inconsistent Local Laws, Ordinances, Rules and Regulations shall be, upon the effectiveness of this Local Law, null and void.



**§18. SEPARABILITY**

The provision of this local law are declared to be severable, and if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or part of this ordinance.

**§19. EFFECTIVE DATE**

This local law shall take effect upon filing with the Department of State.